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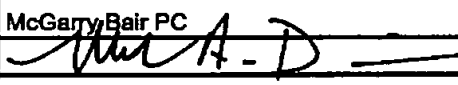
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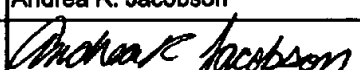
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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/681,099	
	Filing Date	January 4, 2001	
	First Named Inventor	Richard E. Vogel	
	Art Unit	3727	
	Examiner Name	Joseph C. Merek	
Total Number of Pages in This Submission	29	Attorney Docket Number	70254-0328

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Applicant: Richard E. Vogel
For: CONFECTION CUP ASSEMBLY
Serial No.: 09/681,099 Examiner: Joseph C. Merek
Filed: January 4, 2001 Group Art Unit: 3727
Atty. Docket: 70254-328 Confirmation No.: 8152

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Date: <u>November 1, 2004</u>	Signature: <u>Andrea R. Jacobson</u> (type or print name of person certifying)

Commissioner for Patents
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Sir:

RESPONSE TO NOTIFICATION OF NON-COMPLIANCE

In response to the Notification of Non-Compliance mailed September 30, 2004, regarding the form of the Applicants' Appeal Brief filed June 9, 2004, attached is a Second Amended Appeal Brief. The brief is submitted via facsimile and in triplicate via Express Mail.

Applicants note that even though new rules for appeal briefs under 37 C.F.R. § 41.37 ("the new rules") took effect on September 13, 2004, the current amended appeal brief can still be filed under the prior rules of 37 C.F.R. § 1.192 ("the old rules") since the original appeal brief was filed before September 13, 2004. Support for the applicability of the old rules in this instance is found at paragraph 6 of the *Clarification of the Effective Date Provision in the Rules of Practice before the Board of Patent Appeals and Interferences* published on the USPTO's web site at:
<http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/bpai91304.pdf>

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Filed: January 4, 2001
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Examiner: Joseph C. Merek
Group Art Unit: 3727

It is respectfully submitted that the new Appeal Brief complies with all of the requirements of 37 CFR 1.192(c). For completeness, the action taken by Applicant to address each assertion of non-compliance is summarized below:

1. The Examiner asserted that in Issue I claim 29 was improperly grouped with claim 28. Applicants agree and revised the grouping such that claim 29 now stands alone. Separate arguments for patentability were added for claim 29.

It is respectfully submitted that the new Appeal Brief conforms with the requirements of 37 CFR 1.192(c). If there are any questions, please contact the undersigned attorney.

Respectfully submitted,

Dated: 11/1/04

By: Mark A. Davis

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